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No. 10-259

Supreme Court, U.S.
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In The

Supreme Court of the United States

TORINA A. COLLIS,

Petitioner,

v.

BANK OF AMERICA, N.A.,

Respondent.

On Petition For A Writ Of Certiorari To The United States Court Of Appeals For The Fourth Circuit

PETITIONER'S SUPPLEMENTAL BRIEF

TORINA A. COLLIS
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TABLE OF CONTENTS

Page

TABLE OF CONTENTS i

INTRODUCTION 1

THE DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT SIGNED INTO LAW JULY 21, 2010 2

EXCERPTS FROM CENTER FOR PUBLIC INTEGRITY ARTICLE DATED JULY 22, 2010 3

CONCLUSION 4

APPENDIX

BANK OF AMERICA LETTER TO US DEPT OF LABOR ..... App. 1

US DEPT OF LABOR SECRETARY'S FINDINGS CORRESPONDENCE ..... App. 4

TESTIMONY OF SCOTT MEEHAN DURING TRIAL FROM A SEPARATE RELATED CASE COLLIS V. BANK OF AMERICA ..... App. 7

TESTIMONY LISHA THORRE ..... App. 28

TESTIMONY OF TARA GALLMAN ..... App. 31

TESTIMONY OF WALTER FRYE ..... App. 33

TESTIMONY OF CARMEN SORIA ..... App. 40

MOTIONS HEARING REGARDING SUMMARY JUDGMENT, DATED AUGUST 13, 2008 ..... App. 47

INTRODUCTION

Pursuant to U.S. Supreme Court Rule 15.8, Petitioner respectfully submits this Supplemental Brief to bring to the Court's attention to trial testimony from a separate related case. This trial took place over a year after this instant case was dismissed on summary judgment. Petitioner was able to question the key employees on the stand, and the testimony is relevant to this case. This brief also sites a recent article whereby Senator Patrick Leahy of Vermont, co-author of the Sarbanes-Oxley Whistleblower provisions, expresses his concerns regarding the lack of protections it is providing to whistleblowers.

Litigants and regulators have debated the scope of protections provided to whistleblowers under the Sarbanes-Oxley Act ("Sarbanes-Oxley" or "SOX") ever since its enactment in 2002. Some tribunals have held that whistleblowers seeking protection under Sarbanes-Oxley must allege fraud with adverse effects on investors, while others have suggested that no such showing is necessary to trigger the whistleblower protections of Sarbanes-Oxley.

Petitioner has no college education or any formal training relating to legal matters or Security laws. Petitioner was an employee at a bank and reported fraudulent activity.

Petitioner is submitting additional documentation in this supplemental brief. Petitioner was left with no choice but to represent herself as Plaintiff at a trial in a separate related case against Respondent

when the Federal District Judge of Southern Maryland took it upon himself to terminate Petitioner's attorney prior to trial without a request from Petitioner or her attorney. During the trial, Petitioner questioned many associates of the bank that were employed at the same period as Petitioner. Petitioner is including in this supplemental brief excerpts from the trial as she received the trial transcripts from two separate court reporters up through June 2010. The trial lasted 4 days.

Mr. Scott Meehan, the supervisor Petitioner reported the fraud to and who ultimately terminated Petitioner, was one of the employees being questioned. Petitioner questioned Mr. Meehan regarding if he recalled a conversation he had with Petitioner on February 17, 2005, 8 days before he terminated her abruptly. Petitioner told Mr. Meehan she would have to take alternative measures and go to Corporate in North Carolina. Mr. Meehan testified he did not "remember the exact language, but I do recall that you were, as I perceived it, were wanting to go over my head, I think is what that statement was." Mr. Meehan also testified that the statement Respondent gave the U.S. Department of Labor regarding that Petitioner was written up on two separate occasions was not accurate. Mr. Meehan testifies that he had knowledge of Petitioner's complaints of fraud and that he turned it over to a woman in Corporate Security. Mr. Meehan testifies that an affidavit stating Petitioner had inappropriate behavior was provided to him by Respondent's counsel.

Mr. Meehan never documented Petitioner's complaint of fraud as required under the Sarbanes-Oxley law. Mr. Meehan testified that Petitioner did not just report one personal banker opening accounts without the customer's knowledge, but the report was more broad based. Mr. Meehan also testified that he told Ms. Vaughn, on February 24, 2005, to go back and issue the corrective actions to Petitioner. These are the same corrective actions that were indisputably given on February 24, 2005, although one was back dated for February 22, 2005, to give the appearance that Petitioner was written up on separate occasions.

Petitioner is including testimony from Ms. Tara Gallman and Carmen Soria who testified they did not witness any inappropriate behavior from Petitioner. Mr. Walter Frye, the Region al Account Executive, was not aware of any inappropriate behavior displayed by Petitioner. In fact, his testimony was he thought Petitioner's termination was due to non-performance. Mr. Frye also testified Mr. Meehan never reported any fraud complaints made by Petitioner.

In addition, Petitioner is including portions of the letter Respondent's then in-house counsel, submitted to the U.S. Department of Labor with Respondent's position surrounding the termination of Petitioner. Not once was the false misrepresentation corrected. Respondent led the investigators to believe that Petitioner was written up on two separate days. Petitioner is including with this supplemental brief

the U.S. Department of Labor Secretary's findings, relying on the false misrepresentation.

Any complaint of fraud should be fully documented, even if it is apparent that no violation occurred. The documentation should memorialize the actions the employer took to investigate and resolve the complaint.

THE DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT SIGNED INTO LAW JULY 21, 2010

The **Dodd-Frank Wall Street Reform and Consumer Protection Act** (Pub.L. 111-203, H.R. 4173) is a *federal statute* in the *United States* that was signed into law by *President Barack Obama* on July 21, 2010. The Dodd-Frank Act makes favorable changes regarding whistleblower laws under the Sarbanes-Oxley Act Section 1514a, such as providing for a jury trial in federal court. Section 922 fortifies existing protections available to whistleblowers under the Sarbanes-Oxley Act of 2002.

EXCERPTS FROM CENTER FOR PUBLIC INTEGRITY ARTICLE DATED JULY 22, 2010

The Center for Public Integrity's staff writer, Michael Hudson wrote an article on July 22, 2010,

titled "Federal Bureaucracy Dismisses Most Sarbanes-Oxley Whistleblower claims." According to the article "figures available through June 30, 2010, the U.S. Department of Labor has upheld 25 whistleblower claims under the law and tossed out 1,066 claims, a winning percentage of little more than 2 percent for workers seeking whistleblower status."

"In a written statement to the Center, Senator Patrick Leahy of Vermont, co-author of the Sarbox whistleblower provisions, says 'When just over 2 percent of the cases brought to the Department of Labor are found in favor of the whistleblower, something is not working in the system.' Sen. Leahy also says he is concerned that the law has 'resulted in very little actual protection for the men and women who risk their careers to step forward.'"

"Republican Sen. Charles Grassley of Iowa, a long time supporter of whistleblowers, echoed Leahy's misgivings. 'The whistleblower provisions in the Sarbanes-Oxley law were intended as a safety valves to protect the public, shareholders and Americans' confidence in the marketplace,' said Grassley. 'The Department of Labor's dismal record for the whistleblowers who have come forward is of obvious concern and appears to fly in the face of the purpose of the protections in the law.'"

CONCLUSION

The U.S. Supreme Court spared the Sarbanes-Oxley Act of 2002 on June 28, 2010. According to statistics, there have been few whistleblowers protected under this law. There has been a misapplication of the properly stated rule of law. It is imperative that the U.S. Supreme Court intervene to safeguard the interests of the public. This Court needs to establish a national uniform understanding of the interpretation of the Sarbanes-Oxley Act of 2002 as it pertains to the retaliation against whistleblowers and what constitutes protected activity (under the law) sufficient to establish a Section 1514A cause of action.

Petitioner has suffered physically and mentally due to the actions of Respondent. Petitioner prays that this Court grants her Writ of Certiorari and finds that this premeditated, heinous act of retaliation by one of the largest banks in the world is reprehensible, thereby granting Petitioner the protections of the Sarbanes-Oxley Act of 2002, that she so rightfully deserves.

Wherefore, Petitioner prays that the highest Court in the land will grant Petitioner's Writ of Certiorari.

Respectfully submitted,

TORINA A. COLLIS
Pro Se
13240 Star Gazer Place
Waldorf, MD 20601
(240) 508-5492

BANK OF AMERICA

July 15, 2005

Bank of America
Legal Department
NC1-002-29-01
101 South Tryon St
Charlotte, NC 28255

VIA FEDERAL EXPRESS and Electronic Mail @hill.daid@dol.gov

Mr. David Hill, Investigator
United States Department of Labor
Occupational Safety and Health Administration
260 Buffalo Plaza, 142
Sarver, PA 16055

Re: Torina Ann Collis
Case No. 3-0050-05-014

Dear Mr. Hill:

The following serves as the Statement of Position of Respondent Bank of America ("BAC" or the "Bank"). BAC provides this statement in response to the Complaint filed with the United States Department of Labor, Occupational Safety and Health Administration (OSHA") by Torina Collis ("Ms. Collis").[1]

* * *

[1] This Statement of Position is based upon our current understanding and investigation of the facts and circumstances at the time this statement is submitted. By submitting this statement, BAC in no way waives its rights to present new or additional facts and/or arguments based upon subsequently acquired information and/or evidence.

Mr. David Hill
July 15, 2005
Page 2 of 4

II. Ms. Collis's Employment History and Termination

* * *

On February 22, 2005, Ms. Collis was given a written counseling for attendance and inappropriate behavior. On February 23 and again on February 24, management attempted to have a conversation with Ms. Collis. On both occasions, Ms. Collis again abruptly and rudely ended the conversation with the manager. Subsequently, Mr. Meehan notified Ms. Collis that her employment was terminated.

* * *

Mr. David Hill
July 15, 2005
Page 4 of 4

V. Conclusion

For the foregoing reasons, Ms. Collis's Complaint should be dismissed.

With best regards,

Janis W. Johnson
Assistant General Counsel
704-XXX-XXXX (for privacy intentionally blocked out by Petitioner)

[Petitioner, brings to this Courts attention, that the statement that Petitioner was written up on two separate days went uncorrected. The U.S. Department of

Labor relied on the false statement and issued the following findings on October 18, 2005.]

U.S. Department of Labor
Occupational Safety and Health Administration
The Curtis Center, Suite 740 West
170 S. Independence Mall West
Philadelphia, Pennsylvania 19106-3309

Telephone: 215 861-4900

Reply to the Attention of:
Richard D. Soltan

Certified Mail

October 18, 2005
Torina A. Collis
13240 Star Gazer Place
Waldorf, Md 20601

RE: Bank of America/Collis/3-0050-05-014
Secretary's Findings

Dear Ms. Collis:

This is to advise you that we have completed our investigation of the above-referenced complaint filed by you (Complainant) against Bank of America (Respondent) on May 24, 2005, under the employee protection provisions of Title VIII of the Sarbanes-Oxley Act of 2002, Section 806 of the Corporate and Criminal Fraud Accountability Act of 2002, 18. U.S.C. 1514A, et seq., (hereinafter called SOX). In brief, you alleged that Respondent terminated your employment in retaliation for your having filed numerous verbal complaints with management officials that bank employees were opening bank accounts without the customer's knowledge.

Following an investigation by a duly authorized investigator, the Secretary of Labor, acting through her agent, the Regional Administrator for the Occupational Safety and Health Administration (OSHA), Region III, finds that there is no reasonable cause to believe that Respondent violated SOX and issues the following findings:

Secretary Findings

* * *

While Complainant now claims that opening these accounts without the customer's knowledge would give the impression of Respondent's success to the public, make Respondent's bottom line look better and in turn increase their stock value, there is no evidence that she made this connection to shareholder fraud when she made her complaints to management.

Further, Respondent contends that Complainant was terminated for her blatant display of disrespect to her manager. The decision to terminate Complainant was made without regard for any concerns she has ever raised regarding her former banking center. On February 22, 2005, Complainant was given a written counseling memo for attendance and inappropriate behavior. On February 23 and February 24, 2005 management attempted to have a conversation with Complainant. On both occasions, Complainant abruptly and rudely ended the conversation with the manager. Subsequently, Complainants employment was terminated. Respondent indicated that in response to Complainant's accusations, Respondent's

Corporate Security Department reviewed products offered by banking center personnel over a four-month period. Corporate Security found no evidence of fraudulent activity.

Even assuming that Complainant engaged in protected activity, the preponderance of the evidence indicates that such activity was not a contributing factor to Respondent's termination of Complainant's employment. Consequently, this complaint is dismissed.

* * *

Sincerely,

Richard D. Soltan
Regional Administrator

Cc: Respondent
Chief Administrative Law Judge, USDOL
USDOL/SOL
Securities & Exchange Commission

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
SOUTHERN DIVISION

TORINA COLLIS, Plaintiff, v. BANK OF AMERICA NATIONAL ASSOCIATION, Defendant.	:	Civil Action No. PJM 06-2451 Greenbelt, Maryland Thursday, October 29, 2009 10:11 A.M.

TRANSCRIPT OF TRIAL PROCEEDINGS
BEFORE THE HONORABLE PETER J. MESSITTE
UNITED STATES DISTRICT JUDGE

APPEARANCES:

FOR THE PLAINTIFF:
TORINA A. COLLIS, PRO SE
13240 Star Gazer Place
Waldorf, Maryland 20601
240-508-5492

FOR THE DEFENDANT:
ELENA D. MARCUSS, ESQUIRE
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Seven Saint Paul Street,
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Baltimore, Maryland 21202
410-659-4400

OFFICIAL COURT
REPORTER: LINDA C. MARSHALL,
(301) 344-3229

COMPUTER-AIDED TRANSCRIPTION
OF STENOTYPE NOTES

* * *

[13] **SCOTT MEEHAN,**
PLAINTIFF WITNESS, SWORN

THE DEPUTY CLERK: Please have a seat on the witness stand. Sir, please speak directly into the microphone, state your name and spell your last name.

THE WITNESS: Scott Meehan, M-E-E-H-A-N.

THE DEPUTY CLERK: Thank you.

* * *

[14] Q And what was your position there?

A I was a consumer market manager.

Q And what did that entail?

A Essentially, we were responsible for the supervision, the coaching, the audit responsibilities for operations of a set number of branches.

* * *

Q Do you recall the first time that you came in when you came up to my desk in the Beltsville branch banking center, the first time you had met me?

[15] A No, I don't.

Q Okay. It was approximately say September, October of 2004 and, Mr. Meehan, and I'd like to remind you, because I know you're currently with the bank, but that you are under oath here. Do you recall a time when you, that both of us met in the Greenbelt corporate office with Derrick Harris?

A I do recall that.

* * *

[16] Q Okay. So a particular time when you did come to the Beltsville branch, do you recall me telling you that Melody Vaughn was present in the banking center but that I had some issues to discuss? Does that ring a bell?

A Are you asking me what initiated the Greenbelt meeting?

Q Well, do you recall a conversation prior to the Greenbelt meeting where I said that I had some issues that I would like to discuss outside the banking center?

A I recall that you and I had a conversation where you wanted to discuss things in a private setting, and I agreed to meet you at our remote office in Greenbelt.

* * *

[30] Q Now, do you also recall during that meeting that I told you there needs to be an investigation that accounts are being opened without customers' knowledge?

A I do.

Q Okay. And do you remember particularly who I said in my immediate banking center was doing that?

A I don't remember you identifying an individual, more so that it was broad based.

* * *

Q Okay. Now, going into January of 2005, do you recall me contacting you letting you know that the harassment was getting very bad in the banking center, and do you recall that conversation?

A Not specifically that topic, you did call me, but you talked about a lot of things, so I don't remember specifically that item, no.

* * *

[31] Q Mr. Frye, Mr. Meehan, was your boss when you came in January 2005, correct?

A That's right.

Q Okay. And did you ever go to him for advice on my particular complaints?

A Not that I recall, no.

* * *

[33] Q Okay. Now, Mr. Meehan, can I ask you please when the first time you spoke with anyone, any bank counsel regarding, after my termination?

After my termination on February 25th, 2005, when the first time you spoke with any bank counsel?

A I don't recall the first time. I mean, I don't have a date for you, I don't know the exact date, but it was prior to, as I recall, prior to my return to the bank.

Q Okay. As a matter of fact, when did you leave Bank of America?

A April of 2005.

Q Okay. And do you recall February the 17th, or actually, February the 16th, at that time, a phone call that I made to you?

A Not a specific phone call, no, I don't remember.

Q Okay. Do you recall, do you recall me calling you and explaining to you that I just got accused of falsifying my time sheets in front of customers? Do you recall that conversation?

A I recall you calling me to talk about the conversation that you had had about time sheets, yes.

Q And that I said it was getting pretty serious, and I was going to have to take alternative measures and go to North [34] Carolina?

A I don't remember your specific words, but I know you were upset.

* * *

[35] BY MS. COLLIS:

Q Okay. So, Mr. Meehan, do you recall, I'm sorry, the year that you spoke with Ms. Marcuss for the first time?

A I don't. As I said earlier, I don't recall a date.

Q And so February 17th I complained but you didn't take any, you thought it would be handled internally, correct? And you thought my manager would handle it with me?

A Yes.

Q Okay. And then, Mr. Meehan, you were at a conference. Do [36] you remember -- I'm sorry. Do you remember when you were at a conference with Melody Vaughn?

A I do.

Q And when would that be?

A It was in February of 2005.

Q And that date you remember?

A Well, yes, it was, it was a two-day conference, so it was the 23rd and 24th of February.

Q Right. No, I'm just asking but that date you remember?

A Yes.

Q Okay. You just don't remember, I'm sorry, when you met Ms. Marcuss for the first time or talked to her over the phone?

MS. MARCUSS: Asked and answered.

MS. COLLIS: Okay.

* * *

BY MS. COLLIS:

Q I'm sorry. So, Mr. Meehan, there's an affidavit here. So is it your testimony today that you have never documented anything in my file as far as counseling? Did you ever counsel me, Mr. Meehan?

A Yes.

Q Mr. Meehan, could you please tell the ladies and gentlemen of the jury when you counseled me?

A I wouldn't be able to tell you specific dates that we [37] spoke.

Q Okay. I met you – I'm sorry, how many times did you meet me, Mr. Meehan, in person?

A I, I, I couldn't even tell you. I don't know how many times we spoke in person.

Q Okay. Well, I think we've established or have we established that you did come to my banking center, we did meet in Greenbelt where I complained about discrimination and fraud, correct? I'm sorry. Did we, so that – did we meet twice? Right. Okay. So

after, I'm sorry, after the meeting in Greenbelt, when did you meet with me again in person to counsel me?

A I don't know. I couldn't, I could not begin to say when or how many times we met in person.

Q Don't know. Exhibit 35 please. Is this an affidavit of yours, Mr. Meehan?

A Yes.

Q Now, and is this your signature, Mr. Meehan?

A It is.

Q Okay. And that was dated February, 2008, correct?

A Yes, it is.

Q Okay. Now, you left the banking center when?

A Left the bank?

Q I'm sorry. You already answered that I believe. When did you come back to the banking center, I'm sorry, to the Bank of [38] America?

A I came back to the bank in January of 2008, yes.

Q Right. Now, you came back to the banking center after a few years, and who contacted you to come back to the banking center or to the Bank of America?

A Who contacted me to come back to Bank of America?

Q Mm-hmm.

A The initial contact?

Q Yes.

A Was a friend of mine in Charlotte, when I worked for the bank in Charlotte. His name is Clay Lewis.

Q Okay. So you came back January 2008. Do you remember the day at all that you came back?

A The exact date I returned?

Q Yes.

A It was right around the first. I just know I had several weeks off at Christmas time, and the bank had agreed to give me that vacation time from my old job to come into this new one, but the exact date I couldn't tell you.

Q So within maybe three weeks you came back to the bank after being gone since right after my termination, and then you're back, and you sign an affidavit; is that correct?

A Well, it's, this is dated the first of February, so within three to four weeks, yes.

Q Okay. And so your testimony is a friend in North Carolina [39] asked you to come back to Bank of America?

A No, that was not my testimony.

Q I'm sorry. I'm sorry. I won't say that. Strike that. Who provided you with this affidavit?

A Ms. Marcuss.

MS. MARCUSS: Your Honor, may we approach?

THE COURT: All right. Come up.

(Bench conference.)

MS. MARCUSS: This is getting entirely far from the issues in this case. She's trying to suggest some improper purpose. Ms. Collis knows very well the Motion for Summary Judgment deadlines in both of these cases were right after these dates, which is why I obtained affidavits from Mr. Meehan. Relatedly, this affidavit was submitted in the Sarbanes-Oxley case or a Motion for Summary Judgment. The deadline was around this time.

There's nothing nefarious, and her suggestion otherwise is completely inappropriate for a jury that doesn't understand how litigation works, and that when one part has to file a Motion for Summary Judgment, they have the right to get affidavits from their witnesses in support of that motion.

MS. COLLIS: Your Honor, the suggestion is that when he terminated me, they were firing him and that's why he left. When they finished the investigation, because of what he did to me, they need an affidavit and now they bring him back, give him [40] a position, and he signs it.

THE COURT: Let me hear your question. What's the question?

MS. COLLIS: I asked him who provided him the affidavit, because he didn't remember when he spoke with her. Now, all of a sudden he remembers that she gave him that.

MS. MARCUSS: She has no evidence to back that up.

THE COURT: What is the point?

MS. COLLIS: The point is that for two months after my termination, the bank investigated what he did to me and then he was gone from the bank.

THE COURT: Why don't you ask him that directly? Ask him that directly rather than who provided –

MS. COLLIS: Okay. I don't have –

THE COURT: Ask him directly whether he left the bank afterwards and did he have anything to do with the investigation that took place. You can ask him that question.

MS. MARCUSS: She's already asked the first part of that.

MS. COLLIS: Right, but it's, there's an inference that they needed to him to sign and now they give a position that –

* * *

[47] BY MS. COLLIS:

Q Okay. So do you recall repeated phone calls that I made to you regarding how bad it was getting in the banking center?

A I recall repeated phone calls where you brought up a variety of issues.

Q Okay. And were you counseling me at the same time I was bringing up those variety of issues, or did you counsel me, do you think, on a separate day?

A I think it would depend on the situation. Some of them are simultaneous. Some are them are times when a manager is listening to an employee. Sometimes it's a pure coaching session. It would depend on the call and these were a variety of calls or meetings.

* * *

[49] Q So February 24th, the evening of, you now are speaking to Ms. Vaughn about my behavior.

THE COURT: Ask a question,

BY MS. COLLIS:

Q What action did you decide to take?

A I decided that, based on what we do every day, that Melody needs to build a team that can service the needs of the customers in the Beltsville community, that we've got to put together a team that's going to work together and deliver on what our

customers expect out of us. When we have associates that are continually not reacting positively to coaching, [50] further corrective actions or decisions are made.

And at that point, because it was just continuing to be the same thing every time there was a conversation, your behavior, your inappropriate behavior reacting to what was said, I decided that we would terminate, and that I would come to Beltsville tomorrow and do that, tomorrow being the 25th, the next day.

* * *

[52] Q Okay. So do you recall February – back up a second. Do you recall numerous conversations that I've had, specifically one on February 17th, do you recall me saying I had to take alternate measures and go to North Carolina? Do you recall that, a conversation?

A I don't remember the exact language, but I do recall that you were, as I perceived it, were wanting to go over my head, I think is what that statement was.

Q Okay. And then do you recall February 25th, the next morning, me calling out sick?

A Do I recall that? Yes, I do.

Q Okay. Do you recall me telling you I was in severe pain due to the harassment for the last couple days?

A No, I do not.

Q Okay. And during that conversation, what did you relay to me in the conversation when I called out sick?

A That your employment with Bank of America had ended.

Q Okay. And I tried to ask you some questions and then what was your response?

[53] A I deferred you to personnel, that if you had further questions you could take those to personnel.

Q Mr. Meehan, do you recall telling me that I was not allowed to ask any questions?

A No, I don't recall the exact phrase. I know that I, repeating, that I deferred those to personnel.

Q And, Mr. Meehan, do you recall that conversation you telling me now I can take whatever alternative measures I need to take?

A No, I do not.

Q You don't recall that at all?

A Specifically that, no, I do not.

Q And do you recall telling me that I needed just to come in and pick up my belongings then?

A No, what I said was that you and I would meet at a pre-arranged date to pick up your belongings.

Q Exactly, but just to come pick up your belongings. And did I ever, in that conversation, have a chance to tell you my side of the story?

A No. I didn't ask for your side of the story, no, if that's what you mean. The, the discussion was simply stating that the employment had ended and that you would be allowed to get your personal belongings, and that you and I would meet at a pre-arranged date to do that, but it would not be that day.

Q Okay. Now, Mr. Meehan, do you recall me telling you, [54] "Please, Mr. Meehan, these are the same two women that I've been complaining about"? Do you recall that?

A On that call, no. I, as I noted, it was a very short call covering basically what I just said a moment ago.

* * *

[56] Q I'm sorry. I'm sorry. Did anyone ever counsel you on you terminating me over the phone?

A No.

* * *

[Cross-examination from Elena Marcus]

[64] Q Now you've already testified today, so I don't want to rehash your testimony, but you testified

about a meeting in November with Ms. Collis in the Greenbelt office where Mr. Harris was as well. Do you remember your testimony about that?

* * *

Q What, if anything, did you do in response to Ms. Collis' claims about the fraud?

A I went to our corporate security. We have an extensive corporate security department, and I went to an individual there and asked her to do an internal investigation on the associates in the bank, in the Beltsville banking center to determine if, in fact, we did have some type of individual or widespread fraud [65] occurring in that banking center.

Q Do you know the outcome of that investigation?

A She did not find anything that indicated fraud occurring there.

* * *

[70] Q What was your role, if any, in that termination?

A I did the termination. I spoke directly to Ms. Collis.

Q Well, I presume you knew something was happening before the morning of February 25th?

A I did.

Q How did you know what was going on?

A Well, the, the manager, Ms. Vaughn, was with me at a, what we called a banking center manager's summit in Baltimore. It was a two-day summit. And at some point on the second day of the summit, which was to have been the heart of the meeting, it [71] began to snow and the meeting had to be canceled. And so, we all left that meeting early and, as I recall, we were on a charter bus. We had bussed our entire team up to Baltimore.

* * *

I don't recall the specifics on that, but at some point everyone ended up speaking to each other about just what was occurring. And because the meeting had ended early, Ms. Vaughn had the opportunity to go back to the banking center and issue the corrective actions that we have discussed already. And, and I did ask her to do that because the day had ended early, and I asked her to go back and issue those corrective actions.

Q So you knew that Ms. Vaughn is going back to the banking center to issue corrective actions to Ms. Collis on the evening of February 24th, 2005?

A I did.

Q Did you ever learn what happened when she did that?

A Yes. Because, because Melody, Ms. Vaughn, called me at home and made me aware that it went as other corrective conversations had gone, very poorly. There was no sign that Ms. Collis wanted to

improve the behavior, had any intentions of [72] changing the behavior, that anything was going to change in the future, which is the purpose of corrective action. And so, I said to Ms. Vaughn that it was time to stop this for the benefit of the banking center, for the benefit of our customers and chose to go the route of termination.

* * *

Q I take it there was no allegation that Ms. Collis was inappropriate with customers?

A No.

* * *

[Redirect from Torina Collis]

[73] Q Your Honor or Mr. Meehan, you stated that you just stated that Melody Vaughn, prior to going to the banking center, that you directed her to write me up. Was that your statement that you directed her prior to her getting to the banking center? Was that just your statement that you directed her for written counseling prior to her getting to the banking center?

A I don't think that was my exact statement, no.

Q Could you please repeat, when you and Melody Vaughn were having a discussion, what the conversation was about regarding the written counseling prior to her reaching the banking center? Sorry. Could you please tell us and the ladies and gentlemen of the jury the discussion you had with

Ms. Vaughn about the write-ups prior to her getting to the banking center?

A As I recall, I had asked her to, because the day had ended early, she had time to go back to the banking center to work with Lisha and understand what had happened so that they could, if they needed to, deliver corrective action to you.

* * *

[75] Q But, Mr. Meehan, so, and again you got this information after our conversation in November. I'm sorry, you got the information about my inappropriate behavior towards associates after the – the meeting in November of 2004 that we had in Greenbelt, is that when they started telling you that I had inappropriate behavior?

A Yes.

* * *

[78] Q Are you aware, Mr. Meehan, in 2005, July, sorry, exhibit, Exhibit 40, did you make a statement at all to the Department of Labor?

A Did I make a statement to the Department of Labor, no.

Q Okay. And you left again in April of 2005. This letter was generated to the Department of Labor in July of 2005, which you were not there. Do you recall making any statements to anyone shortly after you left, any attorney for the bank?

A Well, as I answered you earlier –

MS. MARCUSS: Objection.

THE WITNESS: I don't know.

MS. COLLIS: Okay.

BY MS. COLLIS:

Q Now according to this, Mr. Meehan, according to this letter, it says that Ms. Collis was given a written counseling on February the 22nd, 2005. Is that an accurate statement, Mr. Meehan?

[79] A It was, it was as – it was dated on the 24th.

Q Well it was typed, right, on the 22nd. You're right. Signed on the 24th, correct, the two write-ups that you saw earlier or they saw earlier, but on the 22nd, I was not given a write-up?

A No, we've shown that they were signed on the 24th.

Q Okay. So, this would not be an accurate statement that, on February 22nd, that I received a written counseling?

A No.

Q Thank you. Now, just, I'm sorry, won't take much longer.

* * *

[80] Q Then I'd like to ask you where Ms. Marcuss asked you about the fraud complaint I put in with you. And what did you do in that circumstance?

I'm sorry, corporate security. Was there any documentation at all regarding any complaints on that issue as well? I mean did you document anything about my complaint on the fraud as well?

A In respect to your file?

Q In respect – no, did you document anywhere. Well, there's nothing – did you ever document anything that I made a complaint that customers' accounts were being opened without their knowledge? Did you document that anywhere?

A To the extent that you bought it up, no. It had nothing to do with you. It had to do with whether or not there were accounts being opened inappropriate at the Beltsville banking center. That was investigated by corporate security.

Q But it's your testimony that I said it was just in Beltsville?

[81] A Yes.

Q And what is your – with Bank of America, are you familiar with the retaliation policies?

A Specific enough to quote them, no. But we do not obviously permit retaliation.

Q Okay, I'm sorry?

A We don't obviously permit retaliation.

* * *

[83] Q Okay. So Mr. Meehan, to have a goal of 1.8 million for the quarter in '04 and then a few months later to go to 2.9 million, do you feel that's a drastic increase?

A In 2004, I don't. If you'll recall, the housing market was pretty hot back then, and so a consumer real estate goal would not have been a dramatic increase at that time.

* * *

[84] MS. COLLIS: All right. Sorry. I'll take no further questions.

THE COURT: All right. Have a seat then. Anything further?

MS. MARCUSS: No, Your Honor.

* * *

LISHA THORNE HOLLOWAY, PLAINTIFF WITNESS, SWORN

THE DEPUTY CLERK: Please have a seat on the witness stand. Ma'am, please speak directly into the microphone, state your name and spell your last name.

[85] THE WITNESS: Lisha Michelle Thorne Holloway, T-H-O-R-N-E, H-O-L-L-O-W-A-Y.

THE COURT: Would you please spell your first name?

THE WITNESS: L-I-S-H-A.

THE DEPUTY CLERK: Thank you.

* * *

[116] Q Okay. So how would you feel my behavior overall was at the banking center excluding those last two days of my employment there?

A Well, I felt that you had a personal, you had a problem with me whenever I would ask you to do something, or your attitude was very negative toward me if I would ask you to do something for me or something related to your job most of the time.

[117] Q Okay. And can I ask you, Ms. Holloway, did that happen after November 2004?

A Somewhere along those lines.

* * *

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
SOUTHERN DIVISION

TORINA COLLIS,	:	Civil Action No.
Plaintiff,	:	PJM 06-2451
v.	:	Greenbelt, Maryland
BANK OF AMERICA NATIONAL ASSOCIATION,	:	Tuesday, October 27, 2009
Defendant.	:	10:20 A.M.
	/	

TRANSCRIPT OF TRIAL PROCEEDINGS
BEFORE THE HONORABLE PETER J. MESSITTE
UNITED STATES DISTRICT JUDGE

APPEARANCES:

FOR THE PLAINTIFF:
TORINA A. COLLIS, PRO SE
13240 Star Gazer Place
Waldorf, Maryland 20601
240-508-5498

FOR THE DEFENDANT:
ELENA D. MARCUSS, ESQUIRE
DIANA WANG, ESQUIRE
McGuire, Woods, LLP
Seven Saint Paul Street, Suite 1000
Baltimore, Maryland 21202
410-659-4400

OFFICIAL COURT REPORTER:
LINDA C. MARSHALL, (301) 344-3229

COMPUTER-AIDED TRANSCRIPTION
OF STENOTYPE NOTES

[2] **I-N-D-E-X**

WITNESSES

On behalf of the Plaintiff:

	Direct	Cross	Redirect	Recross
Michael Joy				
By Ms. Collis	93			
By Ms. Marcuss		114		
Tara Gallman				
By Ms. Collis	115			
By Ms. Marcuss		144		
Walter Frye				
By Ms. Collis	147			
By Ms. Marcuss		160		
By Ms. Collis			161	
By Ms. Marcuss				167

MISCELLANY

Plaintiff's Opening Statement 75

Defendant's Opening Statement 85

* * *

[115] **TARA DOROTHY GALLMAN, PLAINTIFF WITNESS, SWORN**

THE DEPUTY CLERK: Ma'am, please speak directly and loudly into the microphone, state your name and please spell your last name.

THE WITNESS: My name is Tara Dorothy Gallman, and my last name is G-A-L-L-M-A-N.

* * *

[116] Q Okay. So that's your name?

A That's me.

Q Personal banker?

A Mm-hmm.

* * *

[136] THE WITNESS: I think so. I know that there were two separate days. I know that you called me when you had got let go. I wasn't there that day at all. And there was one day when there was a time sheet incident. I remember something about some papers or something like that and I don't remember.

BY MS. COLLIS:

Q Correct. And according to your testimony, I never had inappropriate behavior, so on February 16th when she approached me at my desk, accused me of falsifying my timesheets that time, I guess I wouldn't have had inappropriate behavior that day either, according to your testimony? You didn't see me storm [137] out –

A I didn't see anything like that.

* * *

[142] Q Okay. So you were pretty much there every day that I was there?

A Yes.

Q And you never witnessed me having any inappropriate behavior towards any associates, customers?

A No.

* * *

[146] **WALTER FRYE,**
PLAINTIFF WITNESS, SWORN

THE DEPUTY CLERK: Please have a seat on the witness stand. Sir, please speak loud and directly into the microphone, [147] state your name and spell your last name.

THE WITNESS: Yes. My name is Walter Frye, F-R-Y-E.

* * *

[148] Q Okay. And then when you came up to this northeast region, what position did you take?

A I was at that time senior vice-president, and the role was consumer market executive.

* * *

[149] A I joined the northeast region in January of 2005.

Q Okay. And at that time, did Mr. Meehan ever approach you about complaints that I had given him

regarding several issues, one being racial discrimination and also fraud? Did he ever approach you with that?

A I don't recall being approached with that specifically.

* * *

[150] Q Okay. And if I could ask you when, if you have, did you speak to any representatives from Bank of America regarding anything about this lawsuit?

A Representatives of the Bank of America, I did. I did receive a call from Ms. Marcuss' firm to, to coordinate and to ensure I had the right information about the case, administratively or so.

Q Do you remember the first time that Bank of America's attorney contacted you? I mean, you do realize that your name is in the complaint, so did they ever come to you and talk to you about this case, and when was the first time please?

A The first time that I was contacted about this case was [151] probably three weeks ago after your call to me.

* * *

Q Typically, when would a market manager – well, first of all, were you aware of any inappropriate behavior that I had in the banking center?

A Again, it's, it's been a while, several years, but I don't recall specifically your name associated with inappropriate behavior. Again, I just don't have the details that would confirm or deny honestly.

* * *

[160] Q Okay late January. To what extent, if at all, were you involved in the decision to terminate Ms. Collis' employment?

A A decision was made by Mr. Meehan, and he advised me of the decision, and that's often the case with banking center managers and market managers who have that responsibility to manage a lot of the portions of the market based on the size of it and the complexity of it.

Q Okay. So the decision was made by him, not by you?

[161] A No, it was not made by me.

* * *

THE COURT: I'm sorry. I thought you said you didn't recollect anything about the termination of Ms. Collis? Do you or don't you remember her being terminated?

THE WITNESS: I recall – no, I don't recall the details of her termination, but I do recall that the process we took and all of our terminations in general, and I do recall the, Mr. Meehan talking about the termination of Ms. Collis. So I do recall that it –

THE COURT: I'll let you inquire. Let's, I thought you said you didn't recall anything, and now I'm hearing you say there was some conversation. You open the inquiry, and we'll find out exactly what was said between him and Mr. Meehan and when.

MS. COLLIS: Right.

* * *

BY MS. COLLIS:

Q What do you know please about my termination? And you came [162] in January of 2005, and I'd like to know if you can tell the ladies and gentlemen of the jury please, and I want to remind you that you are under oath, of what Mr. Meehan told you about any of my complaints or just about any conversations that he had with me?

A Yeah, I do not recall any conversation about that you mentioned before discrimination in the marketplace. I don't recall that. What I do recall are the circumstances in terms of my memory about being in the office, him – and this really came through in the last few weeks as we've had these, that you've talked to me especially.

That he, he came to me, and he presented that there was a, that I recall your name now after we've kind of had this conversation the last few weeks, that he recommended and he actually had terminated Ms. Collis, and that my position was I did ask about the circumstances. Again, I don't recall all the details of it, but I do recall that Mr. Meehan had come to me

with advisement that he had terminated Ms. Collis, and that, that we had, that he had shared with me that it was based on some performance. I just don't recall all the details of it to be frank since just coming back to this after about three or four years.

* * *

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
SOUTHERN DIVISION

TORINA COLLIS,	:	Civil Action No.
Plaintiff,	:	PJM 06-2451
v.	:	Greenbelt, Maryland
BANK OF AMERICA NATIONAL ASSOCIATION,	:	Wednesday, October 28, 2009
Defendant.	:	10:30 A.M.

TRANSCRIPT OF TRIAL PROCEEDINGS
BEFORE THE HONORABLE PETER J. MESSITTE
UNITED STATES DISTRICT JUDGE

APPEARANCES:

FOR THE PLAINTIFF: TORINA A. COLLIS, PRO SE
13240 Star Gazer Place
Waldorf, Maryland 20601
240-508-5498

FOR THE DEFENDANT: ELENA D. MARCUSS, ESQUIRE
DIANA WANG, ESQUIRE
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410-659-4400

OFFICIAL COURT REPORTER:
LINDA C. MARSHALL, (301) 344-3229

COMPUTER-AIDED TRANSCRIPTION
OF STENOTYPE NOTES

[2] **I-N-D-E-X**

WITNESSES

On behalf of the Plaintiff:

	Direct	Cross	Redirect	Recross
Sumeana Leslie				
By Ms. Collis	26			
By Ms. Marcuss		32		
By Ms. Collis	36			
Ricardo Grant				
By Ms. Collis	40			
By Ms. Marcuss		47		
By Ms. Collis			49	
Rakesh Raina				
By Ms. Collis	52			
By Ms. Marcuss		64		
By Ms. Collis			72	
Carmen Soria				
By Ms. Collis	84			
By Ms. Marcuss		89		
By Ms. Collis			90	
Satish Peters				
By Ms. Collis	97			
By Ms. Marcuss		124		
By Ms. Collis			129	
By Ms. Marcuss				134
Nancy Akron				
By Ms. Collis	109			
By Ms. Marcuss		112		
By Ms. Collis			113	

Melody Vaughn
By Ms. Collis 139
By Ms. Marcuss 187
By Ms. Collis 215

* * *

[84] **CARMEN SORIA,**
PLAINTIFF WITNESS, SWORN

THE DEPUTY CLERK: Please have a seat on the stand. Ma'am, please speak directly into the microphone, state your name and spell your last name.

THE WITNESS: Carmen Soria, S-O-R-I-A.

* * *

[95] Q Okay. But you remember that I didn't have inappropriate behavior according to your testimony?

A I don't remember. Like I said, I don't remember you having any inappropriate behavior at the time that I was there in the lobby.

* * *

[124] Q Okay. Ms. Gallman, there came a time either the end of 2004, 2005 when you had an occasion, there was an altercation with Ms. Holloway?

A Yes.

THE COURT: Your answer yes?

THE WITNESS: Yes.

THE COURT: All right. Go ahead.

* * *

[125] BY MS. COLLIS:

Q Can you please tell the ladies and gentlemen of the jury, Ms. Lisha Holloway that was our service manager responsible for the tellers, reprimanding tellers, would you please tell the ladies and gentlemen of the jury what happened?

A Okay. I'm going to try to remember, you know. I know that there was some sort of issue. We were having a discussion or something like that, and she pushed me. And I just reported the incident to the supervisor and to the higher authorities in the bank. And later on that evening she, you know, her car was facing me or whatever. I guess she attempted. She didn't – I don't know if she was playing or whatever, but she appeared like she was going to hit me with her car.

So, anyways, they gave me a few days off of work and eventually Lisha was transferred to a different banking center and I'm not sure. I know she wasn't a manager anymore. I think she was a teller at that point. So they said they handled the situation and that was the end of it.

* * *

[126] Q Do you know when that happened?

A I don't know exactly when it happened. I don't.

Q And do you remember, if you do, crying at your desk?

A I know I was very upset, so they let me go home that day.

* * *

[138] THE DEPUTY CLERK: Please have a seat on the witness stand. Ma'am, please speak directly into the microphone, state [139] your name and please spell your last name.

THE WITNESS: Melody Vaughn, V-A-U-G-H-N.

* * *

[158] Q Okay. Just to let her know that Jean Rene did get promoted to banking center manager, did he not?

A He posted for a banking center manager. He can't be promoted. He has to actually pass the interview as well as the testing to be a banking center manager.

Q Okay. But that was after the complaints that I had made regarding the fraud?

A Correct.

* * *

[160] Q Okay. So you were gone and you call in and I'm gone. Now, back to your affidavit signed March 24, '08. First of all, Ms. Vaughn, this is date

the 22nd, but what date did you actually give it to me?

[161] A On February 24th.

* * *

[165] Q Okay. Your testimony today is that, is it not, that you gave me the write-ups on the 22nd of February?

A No.

Q I mean, I'm sorry, the 24th of February?

A Correct, the 24th of February.

* * *

[178] Q Sure. This is your service manager. Did she not sit right next to you in the banking center and give me this as well along with yours?

A She's the one that did this write-up. She gave it to you along with the one that I provided for you. So she's the one that actually did this write-up.

Q Right, she did this. Do you remember coming in the banking center the evening of the 24th, going back to your office, typing up and having her type up this write-up and you giving them both to me on the evening of the 24th?

A Correct. I typed up the one that I provided. I didn't type up this one.

* * *

[179] Q Right. But when you came into the banking center that evening and you had already determined that evening you were going to terminate me based on this write-up, correct?

A We wanted to reprimand you that evening because I had to be called from a meeting in Baltimore, and that's when the way you handled it when we tried to sit down with you with this final warning is what led to the termination the next morning.

* * *

A I actually had spoken to regionals that evening because you had walked out of this meeting when we presented you with the two write-ups and discussed with them that I would feel more comfortable because we had had several issues with you raising your voice and being very irate. And that I felt like this was something that we needed their assistance in in handling you particularly.

* * *

A That evening I don't remember. I remember you walking away and getting up very upset and walking away and leaving that day. I do not recall you going back to your desk and working.

[216] Q Okay. Now, in June, you've testified in June 2004 that I, two other personal bankers went and set up checking accounts. That was our job. But do you remember when I came to you about Jean Rene that I reported fraud? How did you investigate that?

A You didn't actually just do it for Jean Rene. Like I [217] stated to you when you brought it up before, it was Jean Rene and Rakesh Raina that you said that they were product pushing because someone came to you and said that they had an account that they weren't aware of. I asked you what it was from. You specifically told me it was from a direct benefits that you all did prior to me getting to the banking center.

I asked you to give me the person's account number. When I pulled it up, I was able to see the time frame where all of you opened up the accounts. I asked you guys did you have your forms so that I could check it, but you all opened up accounts for the direct benefits prior to me being the manager there.

Q Exactly. Now, when someone comes to you and says here's a customer's phone number –

A You did not give me the customer's phone number. You just came to me personally and said you felt like that he was product pushing because the customer wasn't aware of the savings account.

Q Ms. Vaughn, you just testified that I said, I asked you or I told you that a customer had an account opened without their knowledge. Is that called product pushing? Can you explain product pushing again please? There's a difference between pushing a product when the customer is there and opening an account without their knowledge when they're not there?

A Product pushing can be with the person there or not there. Product pushing is giving, regardless, product pushing is giving [218] someone a product that they did not ask for and without their knowledge regardless. Product pushing is, regardless if the person is in front of you or is not in front of you. It could be that you're making a sales call.

* * *

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MARYLAND

TORINA A. COLLIS, Plaintiff,	:	
vs	:	Civil Action: PJM-06-1346
BANK OF AMERICA, Defendant.	:	

Wednesday, August 13, 2008
Greenbelt, Maryland

The above-entitled action came on for Motions Hearing proceedings before the HONORABLE PETER J. MESSITTE, United States District Court Judge, in courtroom 4C at 2:03 p.m.

APPEARANCES:

On behalf of the Plaintiff:
MORRIS E. FISCHER, Esquire

On behalf of the Defendant:
ELENA D. MARCUSS, Esquire

Tracy Rae Dunlap, RPR, CRR (301) 344-3912
Official Court Reporter

* * *

[3] THE COURT: This is in 06-1346; it's paper 35.

MS. MARCUSS: Thank you, Your Honor. As our briefing on this issue pointed out, there is

one dispositive Fourth Circuit case on the matter, *Livingston versus Wyeth*. We believe that under the rulings in *Livingston versus Wyeth*, it's clear that Ms. Collis cannot establish that she engaged in protected activity. What's important here is that for purposes of summary judgment, it is Ms. Collis' own testimony [4] and statements that provide the only material facts, and they are undisputed. Thus, the question is purely legal: Do Ms. Collis' reports regarding her belief that other personal bankers at the Beltsville banking center were opening accounts without the customer's knowledge satisfy the second element of cause of action under the act, which is essentially that she engaged in protected activity.

* * *

[7] Given the limited base's for Collis' reports, as well as her admission that her concern was for customers, not the shareholders, Collis also cannot establish that she subjectively believed she was reporting a violation of – that she was reporting shareholder fraud or a violation of the law. Thus, it's clear that she cannot establish the fourth element or the second element of a claim, that she engaged in protected activity.

* * *

Finally, Ms. Collis cannot sustain her claim because the evidence is clear that the bank had

legitimate and non-retaliatory reasons for her termination. We submitted three affidavits that explained explicitly –

* * *

U.S. Code Title 18

§ 1001. Statements or entries generally

(a) Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully –

(1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact;

2) makes any materially false, fictitious, or fraudulent statement or representation; or

(3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry;

shall be fined under this title, imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than 8 years, or both. If the matter relates to an offense under chapter 109A, 109B, 110, or 117, or section 1591, then the term of imprisonment imposed under this section shall be not more than 8 years.

(b) Subsection (a) does not apply to a party to a judicial proceeding, or that party's counsel, for statements, representations, writings or documents submitted by such party or counsel to a judge or magistrate in that proceeding.

(c) With respect to any matter within the jurisdiction of the legislative branch, subsection (a) shall apply only to –

(1) administrative matters, including a claim for payment, a matter related to the procurement of property or services, personnel or employment practices, or support services, or a document required by law, rule, or regulation to be submitted to the Congress or any office or officer within the legislative branch; or

(2) any investigation or review, conducted pursuant to the authority of any committee, subcommittee, commission or office of the Congress, consistent with applicable rules of the House or Senate.

SARBANES OXLEY SEC. 802. CRIMINAL PENALTIES FOR ALTERING DOCUMENTS.

(a) IN GENERAL – Chapter 73 of title 18, United States Code, is amended by adding at the end the following: 'Sec. 1519. Destruction, alteration, or falsification of records in Federal investigations and bankruptcy. 'Whoever knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or makes a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of any department or agency of the United States or any case filed under title 11, or in relation to or contemplation of any such matter or

case, shall be fined under this title, imprisoned not more than 20 years, or both. 'Sec. 1520. Destruction of corporate audit records

'(a)(1) Any accountant who conducts an audit of an issuer of securities to which section 10A(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78j-1(a)) applies, shall maintain all audit or review workpapers for a period of 5 years from the end of the fiscal period in which the audit or review was concluded.

'(2) The Securities and Exchange Commission shall promulgate, within 180 days, after adequate notice and an opportunity for comment, such rules and regulations, as are reasonably necessary, relating to the retention of relevant records such as workpapers, documents that form the basis of an audit or review, memoranda, correspondence, communications, other documents, and records (including electronic records) which are created, sent, or received in connection with an audit or review and contain conclusions, opinions, analyses, or financial data relating to such an audit or review, which is conducted by any accountant who conducts an audit of an issuer of securities to which section 10A(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78j-1(a)) applies. The Commission may, from time to time, amend or supplement the rules and regulations that it is required to promulgate under this section, after adequate notice and an opportunity for comment, in order to ensure that such rules and regulations adequately comport with the purposes of this section.

'(b) Whoever knowingly and willfully violates subsection (a)(1), or any rule or regulation promulgated by the Securities and Exchange Commission under subsection (a)(2), shall be fined under this title, imprisoned not more than 10 years, or both.

'(c) Nothing in this section shall be deemed to diminish or relieve any person of any other duty or obligation imposed by Federal or State law or regulation to maintain, or refrain from destroying, any document.'.

(b) CLERICAL AMENDMENT – The table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by adding at the end the following new items:

'1519. Destruction, alteration, or falsification of records in Federal investigations and bankruptcy.

'1520. Destruction of corporate audit records.'.